

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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HUGO HERNANDEZ,

Plaintiff,

**ORDER**  
**09 CV 1576 (ENV)(LB)**

-against-

POLICE COMMISSIONER RAYMOND KELLY,  
SGT. MCNAMARA, PO LOPEZ,  
PO ANGEL CRUZ and PO BALLAERA,

Defendants.

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**BLOOM, United States Magistrate Judge:**

The Court set April 9, 2009 as the deadline to move to amend the complaint and July 19, 2010 as the deadline for the parties to complete all discovery. See docket entry 40. By endorsed Order dated April 19, 2010, the Court extended plaintiff's time to move to amend his complaint to April 23, 2010. Although it was past the deadline, on June 1, 2010, plaintiff filed a motion to amend his complaint. See docket entry 44. Defendants do not object to the proposed amendment. See docket entry 48. The Court therefore grants plaintiff's motion to amend. See docket entry 44.

Defendants request that the Court compel plaintiff to respond to defendants' discovery demands, served on March 22, 2010. See docket entry 48. Defendants' request to compel plaintiff to respond to their discovery demands is granted. Defendants shall answer the amended complaint and re-serve their outstanding discovery demands on plaintiff by June 21, 2010. The Court hereby extends the discovery deadline to **August 2, 2010**. Plaintiff must respond to defendants' interrogatories and demand for production of documents by **July 19, 2010**. Even if plaintiff does not have documents which are responsive, he must put this in writing and sign it

under oath. In addition, the Court warns plaintiff that he cannot set his own deadlines and must comply with the Court's orders. Although plaintiff has not yet responded to defendants' discovery demands, defendants' counsel shall notice plaintiff for his deposition on a date certain before August 2, 2010. Should plaintiff fail to respond to defendants' discovery requests by July 19, 2010 or to timely appear for his deposition, the Court will recommend that plaintiff's case should be dismissed. The sanction of dismissal "may be imposed even against a plaintiff who is proceeding *pro se*, so long as warning has been given that noncompliance can result in dismissal." Valentine v. Museum of Modern Art, 29 F.3d 47, 49 (2d Cir. 1994); see also Agiwal v. Mid Island Mortgage Corp., 555 F.3d 298 (2d Cir. 2009) (per curiam) (dismissing *pro se* plaintiff's case where plaintiff repeatedly failed to comply with the Court's orders); Bobal v. Rensselaer Polytechnic Inst., 916 F.2d 759 (2d Cir. 1990) (affirming dismissal of action, pursuant to Fed. R. Civ. P. 37, for *pro se* plaintiff's refusal to appear at her deposition).

SO ORDERED.

/Signed by Judge Lois Bloom/

  
LOIS BLOOM

United States Magistrate Judge

Dated: June 8, 2010  
Brooklyn, New York